

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Bernard McFadden, #199135,	)	
	)	
Plaintiff,	)	C.A. No. 3:10-3104-JMC
	)	
v.	)	<b>ORDER</b>
	)	
Mrs. Butler, FNU, Food Supervisor of KCI	)	
Mr. Thomas, FNU, Kitchen Manager of	)	
KCI; Mrs. Marshall Fullmer, Nutritionist	)	
For SCDC; Mrs. Marshall, Food Supervisor	)	
of KCI, in their individual or personal	)	
capacities,	)	
	)	
Defendants.	)	
_____	)	

This matter is now before the court upon the Magistrate Judge's Report and Recommendation [Doc. 28], filed on March 29, 2011, recommending Defendants' Motion for Preliminary Injunction [Doc. 12] be denied on the basis that Plaintiff failed to provide a legal basis for the requested relief. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter which the court incorporates herein without a recitation.

**STANDARD OF REVIEW**

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

### **DISCUSSION**

Plaintiff Bernard McFadden is a *pro se* state prisoner pursuing this civil action against the Defendants alleging that his constitutional rights have been violated because he contends that the Defendants serve inadequate portions of food and that the diet served is not nutritionally adequate.

Plaintiff timely filed objections to the Magistrate Judge's Report and Recommendation [Doc. 31]. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that the Plaintiff's objections are non-specific, unrelated to the dispositive portions of the Magistrate Judge's Report and Recommendation, or merely restate his claims. Therefore, after a thorough review of the Magistrate Judge's Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein.

It is therefore **ORDERED** that Plaintiff's Motion for Preliminary Injunction [Doc. 12] is **DENIED**.

**IT IS SO ORDERED.**

s/ J. Michelle Childs  
United States District Judge

June 16, 2011  
Greenville, South Carolina